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**OFFICE OF PETITION
AND PATENTS**

In re Patent No. 5,133,352
Issue Date: July 28, 1992
Application No. 07/508,840
Filed: April 12, 1990
Attorney Docket No. n/a

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ON PETITION

This is a decision on the petition, filed June 4, 1997, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is dismissed.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). **Any such petition for reconsideration must be accompanied by the petition fee of \$130 as set forth in 37 CFR 1.17(h).** The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

The patent issued July 28, 1992. Accordingly, the first maintenance fee due could have been paid during the period from July 28, 1995 through January 29, 1996, or with a surcharge during the period from January 30, 1996 through July 29, 1996. This patent expired on July 30, 1996. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(c) must be accompanied by (1) a verified statement that the delay was unintentional, (2) payment of the appropriate maintenance fee,

unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1) above.

The petition is not considered to contain a properly verified statement of unintentional delay since the petition is presently not deemed to have been submitted by a proper party in interest within the meaning of 37 CFR 1.378(d), which states:

Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest. Such petition must be in the form of a verified statement if made by a person not registered to practice before the Patent and Trademark Office.

If the petition is signed by an assignee, the assignee must comply with 37 CFR 3.73(b). Accordingly, the attached blank Certificate Under 37 CFR 3.73(b) form must be completed to indicate the interest and authority of Vivian Liu to sign the instant petition to reinstate the above-identified expired patent.

In view of the above, the Power of Attorney submitted with the petition is not acceptable. Further correspondence will be directed solely to the address of record; 37 CFR 1.33(d).

Further, it is noted that a maintenance fee payment must identify the patent to which it relates by at least the patent number and the serial number; see 37 CFR 1.366(c).

The statement that the "abandonment was unintentional" does not comply with the rules. However, the statement presented will be accepted as meaning that the "delay was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
 Box DAC
 Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By HAND: One Crystal Park, Suite 520
2011 Crystal Drive
Arlington, Virginia 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-9282.



Karen D. Babington
Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

ATTACHMENTS: Blank Certificate Under 37 CFR 3.73(b) Form
Copy of 37 CFR 3.73(b)